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3 **So Ordered.**



Patricia C. Williams
Patricia C. Williams
Bankruptcy Judge

4 **Dated: May 10th, 2013**
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10 UNITED STATES BANKRUPTCY COURT
11 EASTERN DISTRICT OF WASHINGTON

12 In re:

13 LLS AMERICA, LLC,

14 Debtor.

No. 09-06194-PCW11

15 _____
16 BRUCE P. KRIEGMAN, solely in
17 his capacity as court-appointed
Chapter 11 Trustee for LLS America,
LLC,

18 Plaintiff,

Adv. No. 11-80147-PCW11

19 vs.

20 TERRENCE FRANK,

21 Defendant.
22 _____

MEMORANDUM DECISION RE:
PLAINTIFF'S MOTION TO COMPEL
DISCOVERY (ECF No. 36)

23 The purpose of this decision is to resolve and provide guidance to the parties
24 concerning plaintiff's Motion to Compel Discovery (ECF No. 36) seeking to compel
25 defendant Terrence Frank to answer discovery. As the defendant did not file any
26 responsive pleading nor appear at the hearing on May 10, 2013, no explanation has been
27 provided justifying the failure to respond to the interrogatories and requests for
28 production.

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1 The interrogatories and requests for production were initially served December 20,
2 2012. Responses were due thirty (30) days thereafter, however, the defendant failed to
3 respond to the interrogatories and requests for production. Not a single document was
4 produced in response to 19 document requests and there is simply no response of any
5 kind to the interrogatories. Plaintiff requested by letter of March 7, 2013, that responses
6 be provided by April 1, 2013, and, if not, stated that plaintiff would file a motion to
7 compel and request attorneys fees and costs associated with the motion.

8 The defendant is sanctioned \$500 payable to counsel for the plaintiff as partial
9 compensation to plaintiff of the costs of proceeding with the motion to compel.

10 The defendant is advised that a review of two scheduling orders would assist the
11 defendant in responding to the interrogatories and requests to produce. The Amended
12 Case Schedule Order Re Common Issues (ECF No. 214) and the Amended Case
13 Schedule Order Re Non-Common Issues (ECF No. 219) filed in adversary proceeding
14 No. 11-80299-PCW11, which is applicable in this adversary, should be reviewed.

15 The defendant must answer the proposed interrogatories and comply with the
16 requests to produce documents no later than thirty (30) days from the date of the related
17 order. Fed. R. Bankr. P. 7034 requires that the defendant identify each document as
18 being produced in response to a particular request and provide an index of the
19 documents produced. The defendant is reminded that the definition of “document”
20 includes electronic documents, which are addressed in Fed. R. Bankr. P. 7034(E).
21 Should the defendant object to a particular interrogatory or request to produce, the
22 objection and its basis must be set forth with particularity.

23 **Failure to participate and respond to discovery as a required in the related**
24 **order or Fed. R. Civ. P. 26 may result in further sanctions, which may include**
25 **directing that certain facts are established for purposes of the action, prohibiting**
26 **certain claims or defenses, striking pleadings and awarding fees and expenses for**
27 **delay. Fed. R. Civ. P. 37(b)(2)(A)(i)-(iv), (c).**
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1 This Memorandum Decision resolves Plaintiff's Motion to Compel Discovery
2 (ECF No. 36) and an order will be entered accordingly.

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4 ///END OF MEMORANDUM DECISION///
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